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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,200	10/13/2005	Seigo Watanabe	279492US0PCT	1255
22850	7590	05/03/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER NGUYEN, CAM N	
			ART UNIT 1754	PAPER NUMBER
			NOTIFICATION DATE 05/03/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/553,200

Applicant(s)

WATANABE ET AL.

Examiner

Cam N. Nguyen

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/05/07 (an amendment/response).
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 4 and 5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicants' amendment and remarks, filed February 05, 2006, has been made of record and entered. Claims 1-3 have been canceled. Claims 4-5 have been added.

Claim Rejections - 35 USC § 102(a)/103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim ⁴⁺⁵ 1-3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Drenski et al., "hereinafter referred to as Drenski", (US Pat. 5,688,739).

Drenski discloses a catalyst having the atomic ratios set forth in the empirical formula below: $A_aB_bC_cGe_dBi_eMo_{12}O_x$ where A= two or more of alkali metals, In and Tl; B = the combination of Fe plus at least one element selected from the group consisting of Ni and Co plus

Art Unit: 1754

at least one element selected from the group consisting of Mg, Mn, Ca, Ce, Sn, Cr, Sb, and W; C = one or more of Pb, Eu, B, Sn, Te, and Cu; $a = 0.05$ to 5.0 , $b = 5$ to 12 , $c = 0$ to 5.0 , $d = 0.1$ to 2.0 , $e = 0.1$ to 2.0 , x = the number of oxygen atoms required to satisfy the valency requirements of the other elements and $b > a + c$ (see col. 5, claim 1). The catalyst contains an inert support, which is selected from the group consisting of silica, zirconia, alumina and mixtures thereof (see col. 6, claim 9).

Drenski is silent with respect to the Mo/Si atomic ratio and the relationship between the atomic ratio in bulk composition and the atomic ratio in surface composition of the catalyst particles, etc. It is inherent and expected that the same catalyst having the same empirical formula and a , b , c , d , e , etc values would possess the same characteristics as well.

If in fact the disclosed catalyst does not possess the same characteristics, then the following applies.

It would have been *prima facie obvious* to one having the ordinary skill in the art at the time the invention was made to have optimized the concentrations of Mo and Si at the desired ratios to achieve an improved and effective catalyst, because of *In re Boesch*.

Response to Applicants' Arguments

4. Applicants' amendment and response filed on February 05, 2007 has been fully considered, but not deemed persuasive for the following reasons.

Applicants urged, that Drenski does not teach the claimed limitation on "a catalyst comprises a bulk composition and a surface composition, wherein the Mo/Si atomic ratio in the bulk composition of the catalyst, expressed as A , and the Mo/Si atomic ratio in the surface

Art Unit: 1754

composition expressed as B, have a relationship such that B/A is not greater than 0.6”.

Applicants further argued, that “the disclosed catalyst is not anticipated or inherently have the claimed properties because its process of making the catalyst is different from the process of making the claimed catalyst. Also, Drenski does not describe or suggest the superior result, described at page 2, lines 12-13, of maintaining the acrylonitrile yield at a high level for a long time by employment the presently claimed catalysts.” This is noted but not found persuasive because: (1) the instant claims are drawn to a catalyst, which is a product and not a process of making the catalyst. (2) in order to overcome the rejection, the catalytic structure of the claimed catalyst composition must be compared by providing comparative data including experimentation data showing the differences in the catalytic structure between the two products. It is considered the disclosed catalyst composition inherently possessed the same properties as the claimed catalyst composition in view of the same metal components and metal amounts required in the chemical formula in both the disclosed and the claimed compositions.

Conclusion

5. Claims 4-5 are pending. Claims 4-5 are rejected. No claims are allowed.

Contacts

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

Art Unit: 1754

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

April 25, 2007

Art Unit: 1754